IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CENTRAL EXCISE & CUSTOMS GOLD CONTROL AP No 43 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI
and
Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

COMMISSIONER OF CUSTOMS & CENTRAL EXCISE

Versus

GAS AUTHORITY OF INDIA LTD.

Appearance:

1. CENTRAL EXCISE & CUSTOMS GOLD CONTROL AP No. 43 of 2002
MR ASIM J PANDYA for Petitioner No. 1
MR BHARAT T RAO for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI
and
MR.JUSTICE A.L.DAVE

Date of decision: 24/01/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE R.K.ABICHANDANI)

The following question of law arises from the order of the Tribunal.

(1) Would the assessee not be entitled to the benefit of Rule 57D on the ground that he is liable to pay an amount equal to 8% of the price as contemplated by Rule 57CC(1) of the Central Excise Rules,1944, since lean gas is exempt from duty under Notification No. 5/97, dated 1st March, 1997, in the facts and circumstances of the case?

The Tribunal is directed to refer the aforesaid question of law along with the statement of case as per the provisions of Section 35H(1) & (4) of the Central Excise Act, 1944. Rule is made absolute accordingly with no order as to costs.

[R.K. ABICHANDANI, J.]

[A.L. DAVE, J.]

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